

## REMARKS

Claims 1, 3-5, 7-10, and 12-26 are pending. Claims 5, 7-10, and 12-26 were allowed. Claims 1, 3, and 4 are rejected. Applicant appreciates the indication of allowance for claims 5, 7-10, and 12-26, and respectfully requests reconsideration and allowance of the all claims of this application.

Claims 1, 3, and 4 stand rejected under 35 U.S.C. § 102(b) as assertedly anticipated by U.S. Pat. No. 4,906,033 to Sargent et al. The Office Action asserts that Sargent et al. element 42 is a continuous seal with each side defining a member thereof and Sargent element 50 as a continuous rib that has a top and two side components defining a U and a bottom threshold bridging the sides.

“To anticipate a claim, a reference must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter.” *PPG Indus., Inc. v. Guardian Indus. Corp.*, 75 F.3d 1558, 1566 (Fed. Cir. 1996). “The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention.” *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd. Pat. App. & Int. 1990); *see also In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990) (“Rejection for anticipation or lack of novelty requires, as the first step in the inquiry, that all the elements of the claimed invention be described in a single reference.”); *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick*, 730 F.2d 1452, 1458 (Fed. Cir. 1984) (“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.”). “Moreover, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference.” *Levy* at 1462.

Where there are differences between the referenced disclosure and the claim, a rejection under § 102 is improper. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 780 (Fed. Cir. 1985). “There must be no difference between the claimed invention and the referenced disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991).

Claim 1 of the present application recites “a first door having a substantially continuous peripheral surface and a first substantially continuous sealing member mounted on said first door *and a second substantially continuous sealing member mounted on said first door.*” (emphasis added) Sargent et al. does not illustrate, teach, or discuss a second sealing member mounted on a door. Because Sargent et al. does not disclose every element of claim 1 of the claimed invention, it is improper to reject claim 1 as anticipated by Sargent et al.

Claim 3 is dependent from claim 1, and is allowable on that basis. The Office Action asserts that the term “outwardly” is relative and that rib 50 of Sargent et al. “extends outwardly from its respective door jambs.” On the contrary, one of skill in the art would be able to determine the meaning of the term “outwardly” from the written description. Moreover, Sargent et al. specifically requires that the door frame be “provided with inwardly extending flange” 50. Sargent et al. claim 6; Col. 3, lines 26-27. The flange 50 in Sargent et al. extends inwardly from the frame *away from the door* 24. *See, e.g.,* Sargent et al. Fig. 6. The rib 35 of the present invention extends outwardly from the frame *toward the door*. *See, e.g.,* Fig. 6 of the present application. Thus, Sargent et al. does not disclose the “outwardly extending rib” as claimed in claim 3 of the present application.

Claim 4 recites “a generally U-shaped member having an open lower end and . . . a threshold that bridges said open lower end of said U-shaped member.” The Office Action asserts that Sargent et al. flange 50 “has a top and two side components defining a U and a bottom threshold bridging the sides.” Considering the Sargent et al. structure to have an open lower end and a threshold bridging that open lower end is contrary to the discussion of the flange 50 in the written description in that patent. The flange 50 is “a continuous inwardly extending flange 50,” column 3, line 27, and a “continuous flange 50.” Column 5, line 46. The flange 50 does *not* have an open lower end, as claimed in claim 4 of the present application. Nor is there any structure that bridges a non-existent open lower end, as claimed in claim 4 of the present application. On the contrary, the flange 50 of Sargent et al. is *continuous*, with no open ends. *See, e.g.,* Sargent et al. Figure 2.

Appl. No. 09/978,409  
Amdt. Dated March 11, 2004  
Reply to Office Action of October 15, 2003

Saregent et al. does not illustrate, teach, or even discuss the possibility that the flange 50 has an open end. Thus, Sargent et al. does not disclose every element of claim 4 of the claimed invention, and it is improper to reject claim 4 as anticipated by Sargent et al.

Applicant has made no amendment to the claims previously indicated as allowable.

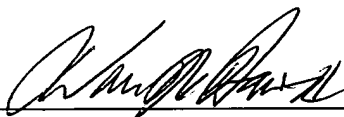
Applicant has submitted a supplemental Information Disclosure Statement concurrently herewith that includes a declaration from one of the named inventors, John W. Lewis, Jr. Applicant respectfully requests consideration of this declaration in relation to the claims pending in this application.

In view of the above remarks, it is submitted that claims 1, 3-5, 7-10, and 12-26 are in condition for allowance. Prompt notice of such allowance is respectfully requested.

Respectfully submitted,

CALFEE, HALTER & GRISWOLD LLP

Date: 3/11/04

By: 

Warren M. Haines II  
Reg. No. 40,632  
Telephone (216) 622-8477